

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Leslie R. DeGroot,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 03:06-cv-71
)	
Stutsman County Park Board)	
Commissioners, Fritz Fremgren, City of)	
Jamestown Police Department , Ken)	
Dahlstad, Bureau of Reclamation, and)	
Department of the Interior,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Before the court is plaintiff's request to proceed *in forma pauperis* (IFP) (Doc. #1) and accompanying complaint, as well as multiple documents which appear to be copies of documents prepared by plaintiff for filing in state court. The above caption reflects the defendants as named by plaintiff. For the following reasons, the magistrate judge **RECOMMENDS** that plaintiff's request to proceed IFP **BE DENIED**.

Plaintiff states he filed this lawsuit in federal court "because the Stutsman County District Court Clerk refused to accept my civil complaint on 06/06/06 at aprox. 4:00 p.m. prior to the monthly scheduled commissioners meeting citing and stating 'Judge Paulson will not allow you to file a complaint and wants to read the papers first,' violating my first amendment rights." Plaintiff's Complaint, at 1-2. This court obtained a copy of an order entered on December 29, 2005 by the Honorable John T. Paulson, a judge in Stutsman County. The court takes judicial notice of the order, which states:

WHEREAS, plaintiff has filed various claims against the City of Jamestown, Stutsman County, and/or their employees or agents within the last two years which contain similar allegations, and

WHEREAS, the Court has found the filings to be meritless, frivolous, vexatious, repetitive, and lacking any legal basis or evidence whatsoever;

WHEREFORE IT IS ORDERED, that plaintiff Leslie DeGroot is precluding [sic] from filing future lawsuits or claims against the City of Jamestown, Stutsman County, and/or any of their employees or agents without prior written approval from the District Court of Stutsman County. Any legal claim or filing served upon the City of Jamestown, County of Stutsman, or its employees or agents is deemed void without an express, written order from the Court approving the filing of such claim attached.

The provisions of 28 U.S.C. § 1915, are designed to ensure “that indigent persons will have equal access to the judicial system.” Lee v. McDonald's Corp., 231 F.3d 456, 458 (8th Cir. 2000) (citations omitted)). The trial court has discretion whether to grant or deny IFP status. Id.

Under 28 U.S.C. § 1915(e)(2), a court may dismiss a complaint filed in forma pauperis at any time if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. Neitzke v. Williams, 490 U.S. 319, 325 (1989). An action is deemed frivolous if “it lacks an arguable basis either in law or in fact.” Id. The court will find a complaint factually frivolous “when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.” Denton v. Hernandez, 504 U.S. 25, 32-33 (1992). The court cannot dismiss plaintiff’s request to proceed IPF if the allegations are merely “unlikely.” Id. at 33. In reviewing a pro se complaint under § 1915(e)(2)(B), the court must liberally construe the allegations of the complaint. Haines v. Kerner, 404 U.S. 519, 520 (1972).

The United States Supreme Court has stated that “baseless litigation is not immunized by

the First Amendment right to petition.” Bill Johnson’s Rests. v. NLRB, 461 U.S. 731, 743 (1983). DeGroot’s voluminous complaint contains multiple and wide-ranging allegations, some of which involve murder plots, electronic spy networks, satellite attacks, and satellite interference with DeGroot’s construction of a cat kennel. The magistrate judge concludes the rambling complaint, with its allegations of multiple conspiracies, “rise[s] to the level of the irrational” and is “wholly incredible.” Denton, 504 U.S. at 33. Because the complaint is frivolous, **IT IS RECOMMENDED** that plaintiff’s request to proceed *in forma pauperis* (Doc. #1) be **DENIED**.

Pursuant to Local Rule 72.1(E)(4), any party may object to this recommendation within ten (10) days after being served with a copy.

Dated this 25th day of October, 2006.



Karen K. Klein
United States Magistrate Judge